

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11
Case No. 10-24129 (RDD)

Hoti Enterprises, L.P.,

Debtor

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Hoti Enterprises, LP,

Plaintiff,

Adv. Pro. No. 15-08221- rdd

- against -

Andy Panken, Stern Keiser & Panken, LLP,
Lawrence Reich, Jeffrey Reich, Reich & Reich PC,
DelBello Donnellan Weingarten Wise & Wiederkehr,
LLP, Robert L. Rattet, James B Gluckman, Rattet
Pasternak, LLP f/k/a Rattet, Pasternak & Gordon-
Oliver, LLP, Tanya Dwyer, Dwyer & Associates,
LLC, and Carl E. Person,

Defendants.

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**ORDER GRANTING MOTION TO DISMISS
IN FAVOR OF DEFENDANT DELBELLO, DONNELLAN,
WEINGARTEN, WISE & WIEDERKEHR**

Upon the motion (the “Motion”) of defendant DelBello, Donnellan, Weingarten, Wise & Wiederkehr (“DDWW”) to dismiss, pursuant to Fed. R. Bankr. P. 7012, the claims asserted against it in the amended complaint filed in this adversary proceeding (the “Amended Complaint”); and there being due and sufficient notice of the Motion; and upon the plaintiff’s objection thereto and all other pleadings filed in relation to the Motion; and upon the record of the hearing held by the Court on the Motion February 9, 2016, at which DDWW appeared by and through Kenneth S. Merber, Esq. of Gallo Vitucci Klar LLP and

plaintiff appeared by and through Alexander E. Sklavos, Esq.; and, after due deliberation and for the reasons stated by the Court in its bench ruling at the hearing, the Court having found and concluded that the Motion should be granted; now, therefore, it is hereby

ORDERED that the Motion is granted, and the first and second causes of action in the Amended Complaint are dismissed on the following separate and independent grounds: (a) plaintiff lacks standing to assert such claims, such claims having been assigned to another party under the confirmed Chapter 11 plan in this case; (b) the first and second causes of action in the Amended Complaint fail to state a claim upon which relief may be granted; (c) the second cause of action in the Amended Complaint is duplicative of the first cause of action; and (d) the first and second causes of action of the Amended Complaint are barred by the applicable statute of limitations. Such dismissal is with prejudice and without costs or fees.

Dated: White Plains, New York
May 27, 2016

/s/Robert D. Drain
Robert D. Drain
United States Bankruptcy Judge